FILED

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA MISSOULA DIVISION

AUG 21 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

CLAUDIA J. LARSON,

CV 18-98-M-DWM

Plaintiff,

ORDER

v.

GRANITE STATE INSURANCE COMPANY, a New Hampshire Corporation, and JOHN DOES, NOS. 1 AND 2,

Defendants.

Defendant Granite State Insurance Company moves for recusal and reassignment pursuant to 28 U.S.C. § 455. The motion is unopposed.

Section 455(b)(5)(iv) provides that a federal judicial officer shall recuse himself from any proceeding in which "a person within the third degree of relationship to [him], or the spouse of such a person . . . [i]s to the judge's knowledge likely to be a material witness in the proceeding." *See also Mangini v. United States*, 314 F.3d 1158, 1161–62 (9th Cir. 2003).

The attorney who represented Plaintiff Claudia Larson in the underlying personal injury action may be a material witness in this case, in which Larson has alleged that Granite State violated Montana's Unfair Trade Practices Act, Montana Code Annotated §§ 33–18–201 *et seq*. The attorney is the spouse of "a person

within the third degree of relationship to" the undersigned. Consequently, 28 U.S.C. § 455(b)(5)(iv) requires recusal and reassignment of this matter to another judge of the District. Accordingly,

IT IS ORDERED that the motion (Doc. 10) is GRANTED. Pursuant to 28 U.S.C. § 455(b)(5)(iv), the undersigned hereby recuses himself from the abovecaptioned matter. The Clerk of Court is directed to provide a copy of this order to Chief United States District Court Judge Dana L. Christensen upon filing, so that Judge Christensen may re-assign the matter in accordance with Standing Order DLC-40 or as otherwise appropriate.

DATED this <u>21st</u> day of <u>Clufus t</u> 2018.

onald W. Molloy, District Judge

United States District Court